

that such evidence be submitted (see §§ 725.405–725.408 of this subchapter); or

(2) Request such additional documents or information as may be necessary to establish the amount of benefits which may be payable, or to establish a more detailed and complete history of the nature and duration of the miner's employment.

(c) Based upon the evidence developed under this section, if any, and the information contained in the claimant's original file, the district director may make an initial finding with respect to the eligibility of the claimant and shall proceed to adjudicate the claim under §§ 725.409–725.421 of this subchapter, which action may include the notification and participation of a coal mine employer and the submission of additional evidence as is appropriate.

**§ 727.107 Action by the Office, Social Security referral without prior review.**

(a) In the case of a claim which is referred at the claimant's request by the Social Security Administration to the Office under § 727.104(a)(2) without prior review by the Social Security Administration, the Office shall follow the procedures set forth in this section.

(b) Upon receipt of a claimant's file the claim shall be assigned to a district director who shall examine the evidence contained in the file to determine whether the claim may be approved in light of the amendments made by the Black Lung Benefits Reform Act of 1977.

(c) If it is determined by the district director that the evidence in the file supports a finding of entitlement to benefits the district director may:

(1) Request up-to-date information from the claimant pertaining to any matter affecting the amount of benefits payable (see subpart G of part 725 of this subchapter); and (2) request any additional information or verification which may be necessary to establish a more detailed and complete history of the miner's employment, for the purpose of determining the identity of any coal mine employer which may be liable for the payment of the claim, and for such other purposes as may be appropriate. Upon receipt of any addi-

tional information requested under this paragraph, or if the claimant fails to supply such information, the district director may make an initial finding with respect to the eligibility of the claimant, notify a coal mine employer, if any, of its possible liability for the claim and proceed to adjudicate the claim under §§ 725.409–725.421 of this subchapter.

(d) If it is determined by the district director that the evidence on file is insufficient to support a finding of entitlement with respect to a claim reviewed under this section, the district director may:

(1) Assist the claimant in obtaining additional medical evidence or request that such evidence be submitted (see §§ 725.405–725.408 of this subchapter); or (2) request such additional documents or information as may be necessary to establish the amount of benefits which may be payable, or to establish a more detailed and complete history of the nature and duration of the miner's employment. Based upon evidence developed under this paragraph, if any, and the information contained in the claimant's original file, the district director may make an initial finding with respect to the eligibility of the claimant and shall proceed to adjudicate the claim under §§ 725.409–725.421 of this subchapter.

**§ 727.108 Action by the Office, Department of Labor pending or denied claim.**

(a) In the case of a claim filed with the Office under section 415 or part C of title IV of the act which is pending or has been denied as of March 1, 1978, the Office shall follow the procedures set forth in this section.

(b) The district director shall examine the evidence contained in the file to determine whether the claim may be approved in light of the amendments made by the Black Lung Benefits Reform Act of 1977.

(c) The district director may: (1) Request up-to-date information from the claimant pertaining to any matter affecting the amount of benefits payable (see subpart G of part 725 of this subchapter); and (2) request any additional information or verification which may

be necessary to establish a more detailed and complete history of the miner's employment, for the purpose of determining the identity of any coal mine employer which may be liable for the payment of the claim, and for such other purposes as may be appropriate. Upon receipt of any additional information requested under this paragraph, or if the claimant fails to supply such information, the district director may notify a coal mine employer, if any, of its possible liability for the claim and proceed to adjudicate the claim under §§ 725.409-725.421 of this subchapter.

(d) If it is determined by the district director that the evidence on file is insufficient to support a finding of entitlement with respect to a claim reviewed under this section, the district director may:

(1) Assist the claimant in obtaining additional medical evidence or request that such evidence be submitted (see §§ 725.405-725.408 of this subchapter); or  
(2) request such additional documents or information as may be necessary to establish the amount of benefits which may be payable, or to establish a more detailed and complete history of the nature and duration of the miner's employment. Based upon the evidence developed under this paragraph, if any, and the information contained in the claimant's original file, the district director may make an initial finding with respect to the eligibility of the claimant and shall proceed to adjudicate the claim under §§ 725.409-725.421 of this subchapter.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, in the case of a claim filed by a part B beneficiary under part C of the act prior to March 1, 1978, for such additional benefits as may be available, the Department shall accept the Social Security Administration's documented finding of entitlement as its initial determination of eligibility.

**§ 727.109 Hearings and appeals, parties.**

(a) If a hearing before an administrative law judge is necessary in connection with a claim reviewed under this part, the hearing shall be conducted in accordance with the procedures set forth in subpart E of part 725 of this

subchapter. An appeal from a decision of an administrative law judge shall be considered by the Benefits Review Board in accordance with the procedures set forth in parts 801 and 802 of this title.

(b) parties to proceedings conducted in connection with a claim reviewed under this section, matters relating to the representation of parties and the right of such representative to obtain a fee for services rendered, the powers of adjudication officers and the service of papers or documents shall be governed by the appropriate provisions contained in subparts C, D, and E of part 725 of this subchapter.

**Subpart C—Criteria for Determining Eligibility for Benefits**

**§ 727.200 Basis for criteria.**

In enacting the Black Lung Benefits Reform Act of 1977, Congress provided that the criteria for determining whether a miner is or was totally disabled or died due to pneumoconiosis shall be no more restrictive than the criteria applicable to a claim filed with the Social Security Administration on or before June 30, 1973, under part B of title IV of the Act (the interim adjudicatory rules). These criteria are to be applied to claims reviewed under section 435 of the Act, to all filed reviewed under section 11 of the Black Lung Benefits Reform Act of 1977 and to new claims filed prior to the effective date of regulations to be promulgated in part 718 of this subchapter which will establish permanent criteria, regardless of the date on which the claim is finally adjudicated. The rules promulgated in this section take into account the amendments made by the Black Lung Benefits Reform Act of 1977 and the expectations of the Congress. Accordingly, these rules provide additional standards, not available in the interim adjudicatory rules, by which a claimant can take advantage of a presumption of total disability or death due to pneumoconiosis arising out of coal mine employment.

**§ 727.201 Persons entitled to benefits, dependents.**

Benefits are provided under the Act to a miner who is totally disabled due